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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR   | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/909,615      | 07/20/2001  | Matthew Kenyon Kellogg | KELM-1-1003         | 2317             |

25315 7590 02/28/2003

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EXAMINER

HUYNH, KHOA D

|          |              |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

3751

DATE MAILED: 02/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                               |   |  |
|------------------------------|-------------------------------|---|--|
| <b>Office Action Summary</b> | Application No.<br>09/909,615 | Applicant(s)<br>KELLOGG, MATTHEW KENYON |  |
|                              | Examiner<br>Khoi D. Huynh     | Art Unit<br>3751                        |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 December 2002.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3 and 5-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 July 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the measuring scale as recited in claim 6 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### *Specification*

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: an automatic fluid transfer medium as recited in amended claims 1 and 11.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 and 8-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Giannos (2727644) in view of Tella et al. (4650095).

Regarding claims 1, 11 and 12, the Giannos reference discloses a fluid transfer apparatus. The apparatus includes a container (Fig. 1) having a neck (at 12 or 42) and a sealing unit (Fig. 2 or 4) removable attached to the neck of the container. As seen in Figure 2 or 4, the sealing unit, once attached to the neck of the bottle, serves as an automatic fluid transfer medium when the bottle is in it tilted position.

The Giannos reference DIFFERS in that a) the bottle does not have at least one locking recess and b) it does not specifically include a carrier as claimed. Attention, however, is directed to the Tella et al. reference which discloses a disposable dispensing container. The container includes at least one locking recess (Fig. 2, see notations), a carrier having a locking arm (Fig. 3) mated to couple with the locking recess. The carrier also includes attachments, for instance, adhesive (col. 3, line 29) for attaching the carrier to a surface. As shown in Figures 1 and 2, the container slides into the carrier and is locked in place by the locking arm. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Giannos reference by employing at least a locking recess for the bottle and a carrier, in view of the teaching of Tella et al., to safely secure the container into a base or carrier while it is in its tilting and dispensing position.

All functional and introductory statements of intended use have been fully considered. However, they are deemed not to impose any structural limitations on the claims distinguishable over the modified Giannos carrier which is

obviously capable of being secured or attached to a machine or a machine part for dispensing a liquid lubricant as claimed.

Regarding claim 8, as seen in Figure 2, the sealing unit also includes an attachment ring (at 14) configured to secure the sealing unit to the container.

Regarding claim 9, the carrier also includes attachments, for instance, adhesive (Tella et al.; col. 3, line 29) for attaching the carrier to a surface.

Regarding claim 10, although not specifically discloses, the modified Giannos carrier unit (Tella et al.; Fig. 3) is capable of being used as a heat shield to prevent the container from coming into contact with a heated surface.

5. Claims 2, 3, 5, 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Giannos (as discussed in paragraph 4) in view of Falb et al. (5287898).

Regarding claims 2, 3 and 14, the modified Giannos reference DIFFERS in that it does not specifically include a safety seal as claimed. Attention, however, is directed to the Falb et al. reference which discloses another fluid transfer apparatus (Fig. 1). The apparatus includes a container (at 10) having a plastic or rubber made seal (at 17). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the modified Giannos bottle by employing a safety seal, in view of the teaching of Falb et al., in order to provide additional closure and prevent the liquid from spilling out when the bottle cap is removed.

Regarding claims 5 and 15, the sealing unit includes a puncture device (at 32) configured to access the fluid inside the container by puncturing the seal.

6. Claim 6 (as best understood) is rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Giannos (as discussed in paragraph 4) in view of Falb et al. (5287898).

The modified Giannos reference DIFFERS in that it does not specifically include a measuring scale as claimed. Attention, however, is directed to the Heyn reference which discloses another fluid transfer apparatus (Fig. 1). The apparatus includes a container (at 1) having a measuring indicator or scale (at 18). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the modified Giannos. device by employing a measuring indicator, in view of the teaching of Heyn, in order to determine the amount of fluid inside the content.

7. Claims 1, 7, 11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Giannos (2727644) in view of Anderson (4722463).

Regarding claims 1 and 11, the Giannos reference discloses a fluid transfer apparatus having substantially all claimed features as discussed above.

The Giannos reference DIFFERS in that a) the bottle does not have a locking recess and b) it does not specifically include a carrier as claimed. Attention, however, is directed to the Anderson reference which discloses another disposable fluid dispensing container. The container (Fig. 3) includes at least one locking recess (Fig. 5 where element 11 engages the lower side of

element 124 which is a part of the container), a carrier (at 11) having a locking arm (at 14 in Fig. 3) mated to couple with the locking recess. The carrier also includes a strap (at 60) for securing the container to the carrier. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Giannos device by employing a carrier that has a locking arm mated with a locking recess of the bottle and an additional strap, in view of the teaching of Anderson, in order to provide a base or carrier for the container and a tight locking and strapping means for securing the container to the carrier.

***Response to Amendment***

8. Applicant's amendment, filed on 12/30/2002, to the pending claims is insufficient to distinguish the claimed invention from the cited prior art or overcome the rejections as discussed above.

***Response to Arguments***

9. Applicant's arguments with respect to claims 1-3 and 5-15 have been considered but are moot in view of the new ground(s) of rejection as discussed above.

***Conclusion***

10. The prior art made of record is considered pertinent to applicant's disclosure. Hixson, Ballard, Scarpa, Zimmerman et al. and Butler were cited to show a dispensing container having a puncturing unit that serves as an automatic fluid transfer medium. Altadonna and Saffell were cited to show a dispensing container having a base or carrier.

11. Applicant's amendment also necessitates a new ground of rejections presented in this Office Action. Accordingly, **THIS ACTION IS MADE FINAL**. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoa D. Huynh whose telephone number is (703) 306-5483. The examiner can normally be reached on M-F (7:00-4:30) Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on (703) 308-2580. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7766 for regular communications and (703) 308-7766 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



Application/Control Number: 09/909,615  
Art Unit: 3751

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Khoa D. Huynh  
Patent Examiner  
Art Unit 3751

HK  
February 24, 2003

*Gregory Huson 2/26/03*

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